IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 12TH DECEMBER 2006 / 21ST AGRAHAYANA 1928

WP(C).No. 27179 of 2006(I)

PETITIONER:

SHAMSUDHEEN, AGED 31 YEARS,
S/O. THEKKUPURAM ABOOBACKER, POOCHAKKAD,KASARGODE.

BY ADV. SRI.C.KHALID
SRI.N.GOPINATHA PANICKER

RESPONDENTS:

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1. SUB INSPECTOR OF POLICE,
BEKAL POLICE STATION, P.O. BEKAL.

2. DEPUTY SUPERINTENDENT OF POLICE,
DISTRICT SPECIAL BRANCH, KASARGODE.

3. THE PASSPORT OFFICER, KOZHIKODE.

4. UNION OF INDIA,
REPRESENTED BY THE SECRETARY, NEW DELHI.

5. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY P.P. SRI.K.A. AKBAR.
BY ADV. SRI.C.UNNIKRISHNAN, CGC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

R. BASANT, J.

W.P.(c) NO. 27179 OF 2006-I

Dated this the 12th day of December, 2006

JUDGMENT

This writ petition is filed by the petitioner for quashing Crime No.70/03 registered by the 1st respondent and all further action taken in pursuance of the said crime.

2. After discussions at the Bar, the following facts emerge. The petitioner is the holder of a valid passport. He had gone abroad. He has returned from his place of employment abroad now. An application for issue of a passport to the petitioner, but in a different name, has been submitted to the passport authorities. The said application contains the photograph of the petitioner; but the name given is different. That application has allegedly been filed by the petitioner-1st accused in active association with the 2nd accused – a travel agent. The prosecution alleges that there was an attempt by the petitioner, the holder of a genuine passport, to secure one in a fake name for himself. It is the allegation that this attempt to secure a forged passport is made by the 1st and 2nd accused acting in collusion.

3. The learned counsel for the petitioner submits that the petitioner has absolutely no involvement in the application which is received by the authorities. He has not applied for any fresh passport in any fake name. The allegations are false. In these circumstances, further proceedings in pursuance of the crime registered may be quashed.

4. I am afraid that the prayer cannot be accepted. Truth or falsity of the allegations must be ascertained at the first instance in an investigation by the Investigator and not by this Court by perusing the documents produced. In proceedings under Sec.482 of the Cr.P.C., it would be improper for this court to come to any authentic conclusion on facts. Certainly, the Investigator will have to proceed further to ascertain whether accused 1 and 2 in collusion had made an attempt to secure a passport for the petitioner who already holds a passport, in a different fake name. That disputed question can be ascertained only after a proper and thorough investigation. The petitioner's assertion that he is innocent may be true. But an opinion on that aspect cannot be ventured by this Court at this moment. Consequently, the prayer for quashing of the proceedings cannot be entertained.

5. The petitioner complains that his original passport in

respect of which no offence whatsoever has been committed by him admittedly is now retained in the custody of the Investigator. The learned Public Prosecutor submits that the passport has already been produced before the learned Magistrate. If the petitioner wants to seek return of the passport to him, it is for him, in these circumstances, to approach the learned Magistrate and make a proper application. I have no reason to assume that the learned Magistrate would not consider such request, if made, in accordance with law on merits and expeditiously.

6. This writ petition is, in these circumstances, dismissed.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge